

*United States Court of Appeals
for the Second Circuit*



APPENDIX

75-1151

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 75-1151

UNITED STATES OF AMERICA

PLAINTIFF - APPELLEE

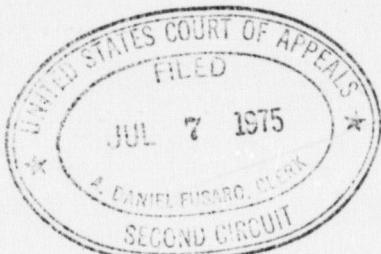
VS

FRANK MESSENGER

DEFENDANT - APPELLANT

APPENDIX OF DEFENDANT - APPELLANT

FRANK MESSENGER



CHARLES HANKEN
COUNSEL FOR DEFENDANT-
APPELLANT
1330 FAIRFIELD AVENUE
BRIDGEPORT, CONNECTICUT

PAGINATION AS IN ORIGINAL COPY

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United States District Court
District of Connecticut
FILED AT HARTFORD
UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

74
4/9 19
Sylvester A. L. Nowaki, Clerk
by Deputy Clerk
In 0
CRIMINAL NO. B 74/26

UNITED STATES OF AMERICA)
v.)
FRANK MESSENGER)
RONALD DI STASSIO)

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

On or about March 1, 1973, the exact date being unknown to the grand jury, at Bridgeport, Connecticut, in the District of Connecticut, Ronald DiStassio, a defendant herein, knowingly participated in the use of extortionate means within the meaning of Section 891(7), Title 18, United States Code, to attempt to collect from John Alicki, the debtor, an extension of credit, in the approximate amount of \$1,500 to wit; the defendant, Ronald DiStassio, expressly and implicitly, by use of a telephone call, threatened the use of violence and other criminal means to cause harm to the persons of John Alicki, the victim, Phyllis Alicki, his wife, and the family thereof.

All in violation of Section 894, Title 18, United States Code.

COUNT TWO

On or about October 4, 1973 at approximately 11:30 a.m. at 546 Garfield Avenue, Bridgeport, Connecticut, Ronald DiStassio and Frank Messenger, the defendants herein, knowingly participated in the use of extortionate means, within the meaning of Section 891(7), Title 18, United States Code, to attempt to collect from John Alicki, the debtor, an extension of credit, in the approximate amount of \$1,500, to wit; the defendants, Ronald DiStassio and Frank Messenger expressly and implicitly threatened the use of violence and other criminal means, and did use violence and other criminal means, designed to cause harm to the person and property of John Alicki, the victim,

c

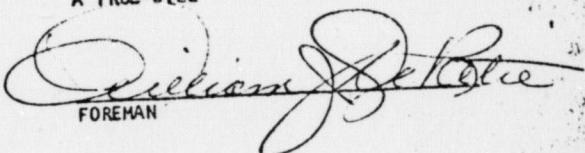
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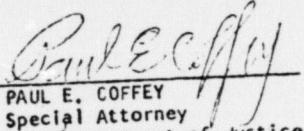
Phyllis Allicki, his wife, and the family thereof, in that the aforementioned defendants set fire to the debtor's car, a 1966 white Buick Riviera, Connecticut marker HM 9934.

All in violation of Section 894, Title 18, United States Code.

A TRUE BILL


William J. DeLoce
FOREMAN

STEWART H. JONES
UNITED STATES ATTORNEY


By: PAUL E. COFFEY

Special Attorney
U.S. Department of Justice

2a

MICROFILM

United States District Court
FOR THE
DISTRICT OF CONNECTICUT

FILED

MAR 27 1975

United States of America

BRIDGEPORT

v.

FRANK MESSENGER

MAR 27 1975

U.S. DISTRICT COURT
NEW HAVEN, CONN.

No. B-74-26 Criminal

On this 24th day of March, 1975 came the attorney for the government and the defendant appeared in person and by counsel

IT IS ADJUDGED that the defendant upon his plea of "not guilty and a verdict of guilty" has been convicted of the offense of violation of Title 18, Section 894 of the United States Code (knowingly participated in the use of extortionate means, to attempt to collect from another, an extension of credit, by destruction of property)

as charged³ in Count Two and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of four (4) years on Count Two.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Robert C. Zayner
United States District Judge

The Court recommends commitment to:

Clerk.

Insert "by name of counsel, counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. Insert "In count(s) number _____ if required." Insert (1) sentence or sentences specifying counts if any; (2) whether sentences are to run concurrently or consecutively; (3) if consecutive, when each term is to begin with reference to termination of preceding term or to commencement of the first sentence; (4) whether defendant is to be further imprisoned until payment of fine and/or costs. For use of Court to recommend a particular institution.

3/1

- 23 Q Now, you never bet directly, or never called directly
24 Mr. Messenger to make any bets on any balls games, did you?
25 A No, sir.

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4a

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NEW HAVEN, CONNECTICUT

1 Alicki - cross

2 Q You never owed Mr. Messenger directly any money as a
3 result of betting on ball games?

4 A No, sir.

5 Q Mr. Messenger never asked you for any money with
6 regard to any losses on ball games?

7 A No, sir.

8 Q I can't hear you, sir.

9 A No, sir.

10 Q You never saw Mr. Messenger at your house, did you?

11 A No, sir.

12 Q Ever?

13 A Never.

1 Alicki - cross

2 that were in the brig, to North Carolina, we were flown over.

3 Q You were flown down with other marines who were
4 likewise in the brig with you?

5 A True.

6 Q Had likewise committed other offenses?

7 A Yes.

8 Q And you got down there in October of '72, right?

9 A Yes.

10 Q Or early November of 1972 at the latest?

11 A I think it was October.

12 Q While you were in Connecticut, you never talked with
13 Mr. Messenger, did you?

14 A No.

15 Q Mr. Messenger here?

16 A I couldn't really tell you. I don't know what Mr.
17 Messenger looks like.

18 Q You don't know what Mr. Messenger looks like?

19 A No.

20 Q You couldn't identify him prior to this trial if
21 you had to, could you?

22 A Don't know him.

23 Q Don't know the man?

24 A Don't know the man.

25 Q In fact, you didn't even know his name on October

6a

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141 CHURCH STREET
NEW HAVEN, CONNECTICUT

- 3 A Correct.
- 4 Q You never saw Messenger, you never talked with
- 5 Messenger, and you wouldn't have known him if you did see him?
- 6 A Correct.
- 7 Q Right up to this present day?
- 8 A Still don't know him.
- 9 Q Did you ever try to get in touch with Mr. DiStassio?
- 10 A Did I ever try to get in touch with him?
- 11 Q During that period of time.
- 12 A NO.
- 13 Q April to October of '72.
- 14 A No.
- 15 Q You never tried to get hold of him?
- 16 A No.
- 17 Q Naturally, you didn't try to get hold of Mr.
- 18 Messenger, either?
- 19 A Why, no.

8 Q Did you personally speak with Mr. DiStassio during
9 that time?

10 A No.

11 Q Did you personally speak with Mr. -- well, you obviously
12 didn't speak with Messenger during that time?

13 A Correct.

14 Q And did -- Mr. DiStassio never called you personally?

15 A True.

16 Q Is that true, and Mr. Messenger never called you
17 personally?

18 A True.

19 Q Isn't that -- pardon?

20 A True.

21 Q You, in turn, never called Mr. DiStassio, did you?

22 A I called Mr. DiStassio? During this time? No.

23 Q Yes, March, '73 to October, '73.

24 A No.

25 Q You never called him? You never went looking for him?

8a

14 Q Was there anything particular -- drawing your attention
15 to the night of October the 4th, 1973, was there anything
16 particular that gave you cause to believe that your family's
17 welfare was jeopardized in any way?

18 A No.

19 Q Or any other night, any other particular night that
20 you went out, was there anything -- any -- did you have any
21 particular reason to believe that there was something that might
22 happen to your family?

23 A No.

Court 5

B 44-26 EXHIBIT
CASE NO. TYPE CRIM.
FULL EXHIBIT

NOV 27 1974
FOR IDENTIFICATION
U. S. DISTRICT COURT
DISTRICT OF CONN.

YOUR HONOR —
PLS INSTRUCT US
RE DEFENDANT MESSINGER

MUST
~~DOES~~ ALL THREE
ELEMENTS BE PROVIDED

By PROSECUTION C.E.

1. EXTENSION OF CREDIT
2. EXTORTIONARY MEANS
TO COLLECT
3. WILLFUL / KNOWINGLY

~~DOES~~ GOVT NEED
PROVE MESSENGER
KNEW ABOUT THE

DEBT

WILLIS 10a
FOREMAN.

CERTIFICATION

This is to certify that on July 3, 1975 a copy of this appendix was mailed first class postage prepaid to the Office of the United States Attorney, 141 Church Street, New Haven, Connecticut and to Peter Casey, Special Assistant U. S. Attorney, 450 Main Street, Hartford, Connecticut.



Charles Hanken

